

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT COURT DISTRICT OF UTAH
AUG 11 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

ROBERT S. TREFF,)	
)	
Plaintiff,)	Case No. 2:04-CV-996 TS
)	
v.)	District Judge Ted Stewart
)	
DR. RICHARD GARDEN et al.,)	O R D E R
)	
Defendants.)	Magistrate Judge Samuel Alba

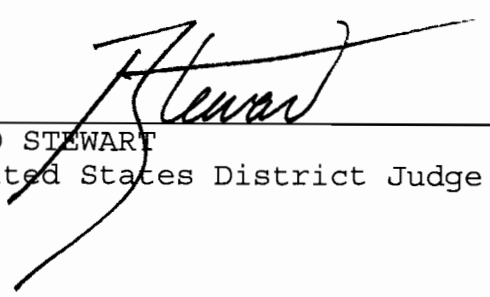
Plaintiff, Robert S. Treff, paid the filing fee when he filed his prisoner civil rights complaint. On April 5, 2006, the Court denied Plaintiff's motion for reconsideration of its denial of his motion for service of process. It has now been 120 days without Plaintiff serving summons and complaint upon the defendants. See Federal R. Civ. P. 4(m). In Plaintiff's recent "Motion for Refund of Filing Fees," he states that, "Fundamental fairness would dictate that if reasonable service is not to be timely offered, the plaintiff should be refunded his filing fee." This indicates Plaintiff still has no intention of serving his complaint himself.

IT IS THEREFORE ORDERED that Plaintiff's complaint is dismissed because he has failed to serve it upon Defendants.

IT IS FURTHER ORDERED that Plaintiff's motion for refund of filing fees is denied.

DATED this 11th day of August, 2006.

BY THE COURT:



TED STEWART
United States District Judge